IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY NINETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 849 of 1993

Between:

J.Naga Raju, S/o. Sanyasaiah, R/o. Visakhapatnam.

..... PETITIONER

AND

1.Govt. of A.P., Rep. Secretary, Industries and Commerce (IA&S)

Department, rep., by its Secretary, Secretariat, Hyderabad.
2.The Commissioner of Sugars, Govt. of A.P., Mukram Jahi Road,
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ, order, orders or direction and to direct the Respondents to pay the Gratuity, Medical reimbursement and encashment of leave in accordance with the terms and conditions of appointment for the service rendered by the Petitioner as M.D., between the years 1981 and 1991 and also to direct the 2nd respondent not to recover the bonus paid to the petitioner for the years 1987-89 and 1989-1990.

Counsel for the Petitioner: MR.V.VENKATARAMANA

Counsel for the Respondents: GP FOR INDUSTRIES & COMMERCE

The Court made the following:

ORAL ORDER:

Heard both sides.

2. The grievance of the petitioner is that he was not being paid the Gratuity, Medical Reimbursement and Encashment of Leave in accordance with the terms and conditions of the appointment and the decision of the respondents to recover the bonus paid to him during the period 1987-1989 and 1989-1990 is illegal.

3. The respondents have filed counter-affidavit *inter alia* sating that the petitioner himself has stated that he was informed by the West Godavari Co-operative Sugars Limited that no Medical Reimbursement Rules were applicable to the Sugar Factories in which he was working. Further, the Sugar Factory had its own Medical Officer and all the officers and the employees of the Sugar Factory are entitled for free treatment from the said Medical Officer and that through G.O.Ms.No.331 Industries & Commerce Department, dated 18-07-1985, it was indicated that medical reimbursement facility was not available to the individuals like the

petitioner.

4. Having regard to the said averments made in the counter-affidavit, I do not find any rationality in the grievance ventilated by the petitioner. Accordingly, the grievance of the petitioner that he is entitled for medical reimbursement is rejected.

5. Insofar as payment of gratuity is concerned, the petitioner ought to have approached the competent authority under the Payment of Gratuity Act instead of filing the present writ petition. Hence, the writ petition is not maintainable insofar as the said grievance of the petitioner is concerned.

6. Further, insofar as the decision of the respondents to recover the bonus already paid to the petitioner during the years 1987-1989 and 1989-1990 is concerned, it is to be seen that the said payment was quite many years ago. At this length of time, having paid the bonus, it is not proper for the respondents to recover the same from the petitioner. Accordingly, there shall not be any recovery of amount towards bonus paid to the petitioner during the years 1987-1989 and 1989-1990.

7. With the above observations and directions, the writ petition is disposed of. However, there shall be no order as to costs.

29TH JULY 2004 D.S.R.VARMA, J

KRK

To:

1.The Secretary, Industries and Commerce (IA&S) Department, Government of Andhra Pradesh, A.P. Secretariat, Hyderabad.

2.The Commissioner of Sugars, Govt. of A.P., Mukram Jahi Road, Hyderabad.

3.Two CCs to the Government Pleader for Industries and Commerce, High Court Buildings, Hyderabad (OUT).

4.Two CD copies.

5.One spare.